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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,231	09/14/2001	David John Fisher		1861

7590 06/08/2004
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EXAMINER

D ADAMO, STEPHEN D

ART UNIT PAPER NUMBER

3636

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/914,231

Applicant(s)

FISHER ET AL.

Examiner

Stephen D'Adamo

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RLH

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26, 27 and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoven et al. (3,194,601) in view of Hock (6,095,603).

Hoven discloses an audience chair including at least one seat having a base (Figure 11) and a beam 14 supporting the seat and being connected to a surface behind and adjacent to the seat. The beam 14 has an upper portion "U" for receiving the base and a lower portion "L" for connecting to the support 10 (shown in previous action, paper #12, in an enlarged view of Figure 6). However, Hoven does not teach of a temporary connection means. Yet, Hock discloses a similar chair device including at least one seat having a base support 20 and a similar beam 10 supporting the seat 30. The beam 10 has an upper portion for receiving the base and a lower portion for connecting to the support 20. Furthermore, the connecting means, seen in Figures 2 and 3, temporarily connects the seat to the beam, as well as, allows the seat to move longitudinally along the beam. Hock also teaches of a longitudinal channel or slot 11 in the underside of the beam 10 for receiving a connector member 23 and bolt 24. The connector member 23 and 24 is connectable to the leg support 22. Moreover, Figure 3 discloses "toggle fasteners" or screws 352 and end bars 351 on positioning plate 35, which "fasten the end bars 351 and

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the base plate 34 together” (col.2, lines 62-63). Note in the online *Merriam-Webster Dictionary*, a toggle fastener is a “piece or device for holding or securing: b. a crosspiece attached to the end of or to a loop in something usually to prevent slipping, to serve in twisting or tightening, or to hold something attached.” It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the audience chair of Hoven with a different connection means including a U-shaped positioning plate 35 and a base plate 34, as taught by Hock, for providing a stably assembled, easily removable chair for purposes of cleaning or relocating. Note, the U-shaped bracket and base plate attached to the lateral rods 33 of Hock, shown in Figure 3, can easily be modified to fit on Hoven’s beam and back tubes 19 for replacing the welding connection. Regarding claims 31 and 32, and Hock (Figure 1) shows a plurality of individual seats, unconnected from one another, located along the beam; thus, each chair having the capability to alter positions along the beam, relative to the other seats.

Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoven et al. (3,194,601) in view of Hock (6,095,603) and in further view of Eames et al. (3,114,575).

Hoven discloses a similar seat with at least one seat, a base and a beam having a support with connecting means. Further, Hoven’s seating system includes a pivot for pivotally connecting the seat to the seat support. “The forward seat segment 30 is supported by the following structure: a pair of seat tubes 32,...a rearwardly extending plate 33,...a U-shaped strap 34,...a pivot rod 36” (col.2, lines 34-40). Hoven discloses, “the U-shaped strap 34 and the member 33 are apertured at 35 to receive a pivot rod 36.” However, neither Hoven nor Hock teaches of a pair of arms connected to the seat back and a

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reinforcing bar. Yet, Eames does teach of a pair of arms 46, each connected to the seat back 6 and reinforcing bars or frames 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the arms on the audience chairs of Hoven with arms connected to the backrest, as taught by Eames, for a more secure or stable arm assembly.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoven et al. (3,194,601) in view of Hock (6,095,603) and in further view of Wilkie et al. (5,636,900).

Hoven discloses a similar seat with at least one seat, a base and a beam having a support with connecting means. However, neither Hoven nor Hock teaches of an extended back member. Yet, Wilkie teaches of an extended back member, "optionally, the seating system may have a back extension releasably attached to the seat back" (Abstract, lines 11-13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seating system of Hoven with an optional back extension, as taught by Wilkie, so "the seating system can be selectively enlarged or reduced to provide variable and substantial support to the specific areas of the user's anatomy" (col.2, lines 44-46).

Response to Arguments

2. Applicant's arguments filed 10 May 2004 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is

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some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Hoven does not teach of a means for connecting the chair to the supporting beam. Although Hoven fails to teach of such connecting means does not imply that Hoven teaches against temporary connecting means. Hock teaches of temporary connecting means on a similar chair and therefore, one skilled in the art would recognize the combination of the two references. Furthermore, if the combination stands, the Applicant agrees that Hock provides bolts, nuts, a connecting plate, a base plate and screws. Whether the invention of Hock is intended to be a temporary connection or a permanent connection is considered intended use. However, one skilled in the art would recognize the use of bolts, nuts and screws are not a permanent connection and can be taken apart whenever desired.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1018.

SD

sd

June 3, 2004


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600